

REMARKS/ARGUMENTS

Claims 32-42 are added herein to clarify the status of claim 31. No new matter has been added and the new claims should not require further search. It is believed that this Amendment, in conjunction with the following remarks, place the application in immediate condition for allowance or at least presents the claims in better form for consideration on Appeal. Accordingly, entry of this Amendment and favorable consideration of the application are respectfully requested in view of the foregoing amendments and the following remarks. Claims 1-42 are pending in the application.

35 U.S.C. § 112 Rejections

Claim 31 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter set forth therein. In particular, the Examiner alleges that claim 31 was not written in proper independent claim format. Claim 31 has been amended and new claims 32 to 42 are added herein to place the subject matter of claim 31 in proper form. No new matter was entered. Each of the formalities identified in the Office Action has been addressed in this Amendment, and Applicant accordingly requests the Examiner to reconsider and withdraw this rejection.

The foregoing claim amendments to address the 35 U.S.C. § 112, second paragraph rejections and claim objections were made to correct formalities such as the form of the claims. Therefore, the foregoing amendments do not narrow the scope of the pending claims.

35 U.S.C. 103 Rejections

Claims 1, 3-8, 10-13, 15, 17-20, 22-25, 27, 29, and 30 were rejected under 35 U.S.C. § 103 (a) as allegedly being unpatentable over Gopalakrishnan et al., U.S. Patent Application Publication No. 2002/0183064 A1, (hereinafter “ ‘064 ”)) in view of Narasimhan, U.S. Patent No. 7,505,788 B1 (hereinafter “ ‘788 ”), and further in view of Ling et al., US Patent 5,737,327, (hereinafter “ ‘327 ”). Claims 2, 9, 14, 21, and 26 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over ‘064 in view of ‘788 and ‘327 and further in view of Gopalakrishnan, U.S. Patent No. 7,009,949 B1, (hereinafter “ ‘949 ”). Claims 4,16, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over ‘064 in view of ‘788 and ‘327, and further in view of Devon, U.S. Patent No. 5,692,127. Applicant respectfully traverses each of these rejections for at least the following reasons.

As noted in the previous response, and as admitted by the Examiner on page 4 of the FINAL Office Action, ‘064 fails to teach a group of transceivers being grouped together based upon a mutual data rate. The Examiner puts forth ‘788 as allegedly curing the deficiency in ‘064. However ‘788 fails to teach or suggest groups of transceivers being grouped together based upon a mutual data rate.

The antenna diversity of ‘788 (col. 1 lines 15 and 20) where, a first transceiver 105 acts as a transmitter and second transceiver 115 acts as a receiver for diversity communications over a single statistical channel fails to amount to the claimed groups of transceivers being grouped together based upon a mutual data rate. It is well understood to those of skill in the art that the use of antenna diversity can increase the data rate for a single channel *associated with a single transceiver*, e.g. where the single transceiver is coupled to multiple antennae (col. 2 lines 40-41). Since it is well understood that antenna diversity is the use of multiple antennas for a single channel associated with a single transceiver, ‘788 clearly fails to teach *a group of transceivers*

that are grouped together based on a mutual data rate as claimed and thus cannot account for the failure of '064 to teach the claimed features.

Therefore, at least 064 and '788 fail to teach or suggest the noted features. Accordingly, claim 1 is patentable. Since independent claims 7, 13, 19, and 25 contain similar limitations as claim 1, claims 7, 13, 19, and 25 are patentable for at least the same reasons set forth herein above with regard to claim 1.

Claims 2-6, 8-12, 14-18, and 20-24, and 26-31 depend from patentable independent claims, and for at least the same reasons as stated for the independent claims, claims 2-6, 8-12, 14-18, and 20-24, and 26-31 are patentable based on their dependency to patentable claims and other novel features contained therein. Therefore, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §103.

SUMMARY

For at least the foregoing reasons and the reasons set forth in Applicant's response of October 26, 2007, it is respectfully submitted that independent claims 1, 7, 13, 19, 25 and 31 are distinguishable over the applied art. The remaining dependent claims are allowable at least by virtue of their dependency on the above-identified independent claims. Moreover, these claims may recite additional subject matter, which is not suggested by the documents taken either alone or in combination.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. If the Examiner believes that any additional changes

would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, at the telephone number listed below.

Deposit Account Authorization

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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